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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



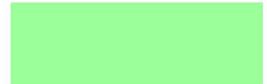
U.S. Citizenship
and Immigration
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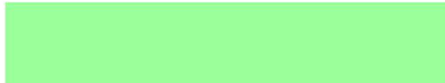
DATE: OCT 31 2013

OFFICE: TEXAS SERVICE CENTER

FILE:



IN RE: Petitioner:
Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)(A)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Ron Rosenberg

Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center (director), denied the immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed as abandoned pursuant to the regulation at 8 C.F.R. § 103.2(b)(13)(i).

The petitioner provides information technology services. It seeks to permanently employ the beneficiary in the United States as a senior consultant. The petition requests classification of the beneficiary as a member of the professions holding an advanced degree pursuant to section 203(b)(2)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2)(A). An ETA Form 9089, Application for Permanent Employment Certification (labor certification), certified by the U.S. Department of Labor (DOL), accompanied the petition.

The director's decision denying the petition concludes that the petitioner failed to establish a *bona fide* job offer. The director also found that the petitioner did not demonstrate the beneficiary's qualifying educational credentials for the offered position as stated on the labor certification and required for classification as an advanced degree professional.

The record shows that the appeal is properly filed and makes a specific allegation of error in law or fact. The record documents the case's procedural history, which is incorporated into the decision. The AAO will not elaborate on the procedural history unless necessary.

The AAO conducts appellate review on a *de novo* basis. *See, e.g., Soltane v. Dep't of Justice*, 381 F.3d 143, 145 (3d Cir. 2004). The AAO considers all pertinent evidence in the record, including new evidence properly submitted on appeal.¹

On July 30, 2013, the AAO mailed the petitioner a Notice of Intent to Dismiss the appeal, with a copy to counsel of record. The notice informed the petitioner of evidence that the DOL revoked the labor certification on June 12, 2013 pursuant to the regulation at 20 C.F.R. § 656.32. The notice also stated that the AAO intended to dismiss the appeal in the absence of a labor certification to support the petition. *See* 8 C.F.R. § 204.5(k)(4)(i) (an individual labor certification must accompany a petition for an advanced degree professional unless the requirement is waived in the national interest). The notice allowed the petitioner 30 days in which to submit rebuttal evidence or otherwise respond. The notice informed the petitioner that failure to respond would result in the appeal's dismissal.

As of the date of this decision, the AAO has not received a response to the notice from the petitioner. The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. *See* 8 C.F.R. § 103.2(b)(14). Because the petitioner failed to respond to the

¹ The instructions to Form I-290B, Notice of Appeal or Motion, which are incorporated into the regulations by 8 C.F.R. § 103.2(a)(1), allow the submission of additional evidence on appeal. The record in the instant case provides no reason to preclude consideration of any of the documents newly submitted on appeal. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988).

notice, the appeal will be summarily dismissed as abandoned pursuant to the regulation at 8 C.F.R. § 103.2(b)(13)(i).

In visa petition proceedings, the petitioner must establish its eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.